

REMARKS/ARGUMENTS

The claims are 1-2. Claim 1 has been amended to more clearly define the invention. Support for the amendments to claim 1 may be found, *inter alia*, in the disclosure as filed at the paragraph bridging pages 2 and 3, the paragraph bridging pages 3 and 4 and in FIGS. 1-4. No new matter has been introduced. Reconsideration is expressly requested.

The claims are 1-2, which have been rejected on the basis of the prior art. Specifically, claim 1 has been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,161,254 to Montagner in view of U.S. Patent No. 6,505,933 to Schuchard *et al.* The remaining claim 2 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Montagner and Schuchard *et al.* and further in view of U.S. Patent No. 6,152,562 to Montalban.

This rejection is respectfully traversed and reconsideration is expressly requested.

As set forth in claim 1 as amended, Applicant's invention

provides a spring hinge for spectacles including a hinge part which is held in a displaceable manner in the longitudinal direction of a temple in a housing on the temple side, a fixture which projects from the hinge part in the direction of displacement, engages in an opening in the housing and includes a fixture rod and a transversal bar at the end of the fixture rod, and two helical springs which are provided laterally adjacent to the fixture rod, are parallel thereto and rest with their end at a hinge side on an abutment associated with the housing and with their opposite end on the transversal bar of the fixture.

As recited in claim 1 as amended, each of the two helical springs is axially inserted into a respective housing bore. Each of the housing bores is open towards the housing opening for the fixture rod. Moreover, each of the housing bores extends up to a face side of the housing on the hinge side for receiving the helical springs after the housing is attached to the temple. The housing bores each receive a locking element forming the abutment for the helical spring.

In this way, Applicant's invention provides a spring hinge for spectacles that enables insertion of the hinge part with the

fixture and the two helical springs after the housing is attached to the temple.

In the response to the arguments presented in Applicant's Response to Final Office Action filed May 12, 2009, the Examiner has maintained the position that the housing 1 of the primary reference to *Montagner* discloses two housings bores as recited in Applicant's claims. In particular, the Examiner indicated that a bore does not necessarily require an axial opening and that Applicant's claims did not disclose an axial structure. With respect to the Applicant's arguments regarding the proposed combination of *Schuchard et al.* and *Montagner*, the Examiner took the position that the such arguments were based on unclaimed functional language.

In response, Applicant has amended claim 1 to more clearly define the invention. It is respectfully submitted that the cited references fail to teach or suggest a spring hinge for spectacles having the structure set forth in Applicant's claim 1 as amended. Moreover, the cited references, considered alone or in combination, fail to achieve the substantial benefits resulting from Applicant's claimed structure.

In particular, claim 1 as amended provides:

each of the two helical springs (10) is axially inserted into a respective housing bore (9) each of the housing bores being open towards the housing opening (5) for the fixture rod (7) and each of the housing bores extending up to a face side of the housing on the hinge side for receiving the two helical springs after the housing is attached to the temple,

The primary reference to Montagner fails to teach or suggest a pair of housing bores which extend to a face side of the housing on the hinge side for receiving two helical springs after the housing is attached to the temple. Rather, the housing 1 of Montagner forms an open tub into which anchor rod 3 and springs 6 are inserted from above.

To the extent that the spaces for accommodating the helical springs 6 formed between the longitudinal housing walls and the anchor rods 3 as shown in FIG. 1 of Montagner could be said to be housing bores, such spaces clearly do not extend up to a face side of the housing on the hinge side for receiving the two helical springs after the housing is attached to the temple, as recited in Applicant's amended claim 1.

Moreover, the springs 6 according to Montagner are not axially inserted into respective housing bores as recited in amended claim 1 and the tub of Montagner cannot receive the two helical springs after the housing is attached to the temple, as recited in amended claim 1. Rather, the springs in Montagner are inserted into the housing in a radial direction through the tub opening. Additionally, the anchor with the helical springs 6 of Montagner must be inserted into the housing, crosswise to the direction of displacement of the hinge part, before the housing is welded to the ear-piece or temple A. In particular, since the Montagner arrangement does not include housing bores extending up to a face side of the housing on the hinge side, the helical springs cannot be axially inserted after the housing is attached to the temple, as in Applicant's claimed arrangement.

In summary, the housing according to Montagner forms a common accommodation space for the anchor rod 3, the crosspiece 5, and the helical springs 6, which are by no means "axially inserted into a respective housing bore" wherein the housing bores extend "up to a face side of the housing on the hinge side for receiving the two helical springs after the housing is attached to the temple" as recited in Applicant's claims.

Although the secondary reference to *Schuchard et al.* shows an insertion of an anchor rod 8, with a helical spring 10 surrounding the anchor rod 8, into a housing bore 2, i.e. in an axial direction, it is respectfully submitted that *Schuchard et al.* teaches a fundamentally different construction than *Montagner*.

In particular, in the spring hinge according to *Schuchard et al.*, the hinge part 5 passes through a single helical spring 10 with its anchor rod or guide pin 8, which spring supports itself, on the one hand, on an end-side catch piece or stop 9 of the anchor rod, and, on the other hand, on a counter-bearing or locking element 11, which can be inserted into a housing bore or recess 2 in the displacement direction of the hinge part. The locking element 11 supports itself, relative to the housing, using at least one catch tongue or snap-in pin 16.

If one were to transfer the teaching of *Schuchard et al.* to *Montagner*, then first the anchor rod 3 with the helical springs 6 and a locking element stored on the anchor rod 3 would have to be combined into one building unit, which would then be inserted in the front side-open housing 1 in an axial direction, in order to

lock the locking element within the housing. This arrangement is in contrast to Applicant's spring hinge as recited in amended claim 1, wherein the helical springs 10 are inserted into respective housing bores which are open toward the housing opening 5 for the fixture rod 7 in order to make room for the transversal bar 8 of the fixture rod 7.

Moreover, in *Schuchard et al.*, the hinge part with the anchor rod 8, onto which the counter-bearing 11 and the helical spring 10 must be pushed, one after the other, before the catch piece 9 can be attached, are introduced into the housing bore, until the counter-bearing 11 engages in the housing bore 2. It is respectfully submitted that this teaching cannot be easily transferred to *Montagner*, because the lateral helical springs 6 of *Montagner* do not have any guide, and therefore, also cannot be fixed in place between a counter-bearing 11 that is pushed onto the anchor rod 3 and the crosspiece. Such axial bracing of the lateral helical springs, for common insertion of the hinge part with the helical springs and the counter-bearing through an axial housing opening is therefore not possible in *Montagner*, so it is respectfully submitted that *Schuchard et al.* cannot give any teaching for the solution as recited in Applicant's claim 1 as

amended.

Applicant's spring hinge as recited in amended claim 1 amended improves the spring hinge according to *Montagner* such that each of the two helical springs are received in the respective housing bores after the housing is attached to the temple. It is respectfully submitted that without having knowledge of Applicant's invention as recited in claim 1 as amended, it would not be possible to derive a solution for the problem from either *Montagner* or *Schuchard et al.*

It is respectfully submitted, moreover, that *Schuchard et al.* by no means makes it obvious to provide separate housing bores for two helical springs next to the opening for the anchor rod, whereby the separate housing bores for the helical springs are open towards the housing opening for accommodating the anchor rod.

Neither *Montagner* nor *Schuchard et al.* teach or suggest a pair of housing bores which are "open towards the housing opening (5) for the fixture rod (7)" and extend "up to a face side of the

housing on the hinge side for receiving the two helical springs after the housing is attached to the temple" as recited in Applicant's amended claim 1.

Therefore, it is respectfully submitted that a person having ordinary skill in the art has no reason at all, without having knowledge of Applicant's invention as recited in claim 1 as amended, to combine *Montagner* and *Schuchard et al.*, in order to be able to insert the anchor having the lateral helical springs, according to *Montagner*, into the eyeglass housing after the housing is attached to the eyeglass frame temple piece.

The remaining reference to *Montalban*, which has been cited with respect to claim 2, has been considered but is believed to be no more relevant. *Montalban* simply discloses an elastic hinge for eyeglasses having an annular locking element 24, which can be threaded from the free end of the temple 11 and can slide freely along the smaller region 32 of the temple 11. There is no disclosure or suggestion in *Montalban* of a spring hinge for spectacles having the structure recited in Applicant's amended claim 1 or the benefits achieved by that structure.

Accordingly, it is respectfully submitted that claim 1 as amended, together with claim 2 which depends thereon, recites patentable and unobvious subject matter.

In summary, claim 1 has been amended. In view of the foregoing, it is respectfully requested that the claims be allowed and that this application be passed to issue.

Respectfully submitted,
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Express Mail No. EM 285 933 403 US
Date of Deposit: June 9, 2009

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